

REPORT TO THE LEGISLATURE

Implementing Automatic Voter Registration

E2SHB 2595 (Chapter 110, Laws of 2018)

December 1, 2018

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EXECUTIVE SUMMARY

Automatic Voter Registration (AVR)

Engrossed Second Substitute House Bill 2595, also known as the Automatic Voter Registration Act of 2018, requires those state agencies providing public assistance or services to persons with disabilities to submit a report to the Governor and appropriate legislative committees describing steps to implement automatic voter registration, including barriers to implementation, and applicable privacy protections. DSHS has evaluated the feasibility of implementing automatic voter registration in the attached report. The report applies to clients applying for services from the following areas of the department¹:

- Aging and Long Term Service Administration (AL TSA)
- Developmental Disabilities Administration (DDA)
- Economic Services Administration (ESA)

Clients of the Division of Vocational Rehabilitation (DVR) are not required to provide citizenship verification as a condition of receiving services. And since Section 202(5) of the AVR law states “... Agencies may not begin verifying citizenship as part of an agency transaction for the sole purpose of providing automatic voter registration,” clients of DVR have been excluded from the AVR process. However, DVR clients still are offered voter registration assistance under the NVRA at application, benefit review and change of address

Background

The Department of Social and Health Services (DSHS) is Washington State’s largest agency. Our mission is to transform lives by providing assistance or support to 2.7 million of the state’s 7 million residents each month.

DSHS is committed to providing clients the opportunity to register to vote, as required by the National Voter Registration Act of 1993 and Governor Inslee’s Executive Order 15-02 in 2015. In fiscal year (FY) 2018:

- DSHS offered 1,484,708 individuals assistance in registering to vote.
- 135,190 clients accepted registration assistance; and,
- 36,556 registrations were sent to the Office of Secretary of State.

Impact

The legislation states that AVR applies to state agencies that collect, process and store clients’ name, residential addresses, dates of birth, verification of US citizenship, and signature attesting to the truth of the information provided on the application. DSHS records this information in electronic systems. Using available data, DSHS has derived the applicant population impacted by AVR.

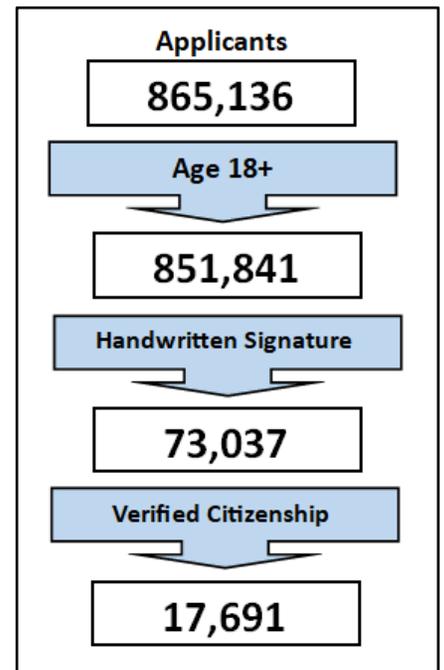
¹ The majority of DSHS clients apply for services offered by Economic Services Administration/Community Services Division, Aging and Long Term Services Administration/Home & Community Services Division and by the Developmental Disability Administration. For those clients, the Automatic Voter Registration data is extracted from the Automatic Client Eligibility System (ACES) and Barcode systems.

In FY 2018, the department processed a total of **865,136 applications** for cash, food, and medical benefits or services. To measure the impact of AVR on this population, DSHS applied each of the data elements in Section 202(3).

- Age 18 or older
Of the total applicants in FY 2018, **851,841 or 98.4 percent were age 18 or older.**
- Signature attestation
Many applications for DSHS services are provided on-line, which does not require an applicant’s signature, but rather, other identity authentication methods. Only those applications having an applicant’s signature are acceptable by the Secretary of State’s Office for AVR.

Those over age 18 who provided **paper applications requesting DSHS services totaled 73,037 or 8.4 percent.** Not all paper applications are signed by the client. Some applications may be signed by the client’s representative, guardian, or the Head of Household.

- Verification of Citizenship
To retain consistency in citizenship verification across all state agencies offering automatic voter registration, the Office of the Secretary of State will only accept the following U.S. citizenship verification types:
 - Unexpired US Passport or Passport Card;
 - U.S. Certificate of Citizenship;
 - U.S. Certificate of Naturalization;
 - Certified Birth certificate;
 - Consular Report of Birth Abroad (US Department of State).



DSHS does not collect or track ‘Consular Report of Birth Abroad’ as a unique type of citizenship verification.

Using FY 2018 client data, the resulting total number of **applicants impacted by AVR is estimated to be 17,691 clients. This represents 2 percent of the total applicants for DSHS services.**

Cost/Timeline

The Department estimates that **\$794,000 total funding is necessary to implement AVR.** This includes initial costs of \$583,000 for planning and development of an automated solution (IT staff and associated costs). After the IT changes are implemented and the business processes are established, there is an ongoing annual cost of \$211,000 associated with staff processing time (“touch time”) and maintenance for ongoing IT costs.

DSHS anticipates AVR planning and design work would commence immediately following approval of funding, with a targeted implementation date 18 months later. [See Appendix 1.](#)

IMPLEMENTING AUTOMATIC VOTER REGISTRATION IN DSHS: IMPACT AND COSTS

Background

The Department of Social and Health Services (DSHS) is Washington State's largest agency. Our mission is to transform lives by providing assistance or support to 2.7 million of the state's 7 million residents each month.

DSHS is committed to providing clients with a real and effective opportunity to exercise their right to vote. Voter registration is among the types of assistance DSHS provides to eligible clients. The National Voter Registration Act of 1993 (NVRA) requires states to offer voter registration opportunities at all offices that provide public assistance and all offices that provide state-funded programs primarily engaged in providing services to persons with disabilities. DSHS offers voter registration assistance to clients at application, benefit review and address change. In FY 2018, DSHS had:

- 1,484,708 offers of assistance to register to vote;
- 135,190 clients accepted registration assistance; and,
- 36,556 registrations sent to the Office of Secretary of State on behalf of DSHS clients.

Automatic Voter Registration

Engrossed Second Substitute House Bill 2595, also known as the Automatic Voter Registration Act of 2018, requires DSHS to evaluate the feasibility of implementing automatic voter registration (AVR) in a report to the Governor and Legislature no later than December 1, 2018. The report applies to clients applying for services from the following areas of the department:

- Aging and Long Term Service Administration (AL TSA)
- Developmental Disabilities Administration (DDA)
- Economic Services Administration (ESA)

DSHS consulted with staff from the Secretary of State's Office, Health Care Authority and Office of the Attorney General in identifying assumptions, barriers, and mitigation strategies for implementation of AVR. DSHS received additional feedback (concerns, suggestions and offers of assistance) from voter registration advocates and others attending an October 10, 2018 meeting at the Governor's Office. In addition, DSHS participated in a legislative work session on November 14, 2018 and received feedback from the Senate State Government, Tribal Relations and Elections Committee.

Impact

The legislation states AVR applies to state agencies that collect, process and store the following information: applicant names, traditional or non-traditional residential addresses, dates of birth, verification of US citizenship, and signature attesting to the truth of the information provided on the application for assistance or services. For DSHS applicants, the names, physical and mailing addresses, date of birth and citizenship are recorded in the Automated Client Eligibility System (ACES). The signature attestation information may be available for those applicants submitting paper applications and imaged in the Client Electronic Case Record in the Barcode system. Using available data, DSHS has derived the applicant population impacted.

In FY 2018, the department processed a total of **865,136 applications** for cash, food, and medical benefits or services. To measure the impact of AVR on this population, DSHS applied each of the data elements in Section 202(3).

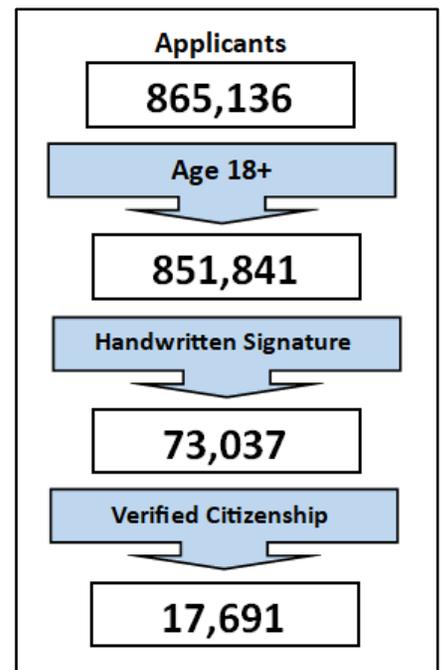
- Age 18 or older
Of the total applicants in FY 2018, **851,841, or 98.4 percent were age 18 or older.**
- Signature attestation
The legislation defines signature as one “...attesting to the truth of the information provided on the application for assistance or services...” Many applications for DSHS services are provided on-line or by telephone. Those application methods do not require an applicant’s signature, but other identity authentication methods. Only those applications having an applicant’s signature are acceptable by the Secretary of State’s Office for AVR.

An applicant’s signature attestation may be available for those:

- Completing paper applications for cash, food, and medical; or,
- Signing their needs assessment and CARE plan for long term care (AL TSA) and services for developmental disabilities (DDA);

When DSHS clients provide paper applications, they are imaged into the appropriate case record. The Secretary of State’s Office has indicated they will accept images of applicants’ signatures.

Those over age 18 who provided **paper applications requesting DSHS services totaled 73,037 or 8.4 percent.** However, not all paper applications are signed by the client. Others may be signed by the client’s authorized representative, guardian, caretaker, or other member of the household.



- Verification of Citizenship
Not all DSHS services require U.S. citizenship verified through the Social Security Administration (SSA) as a condition of receiving benefits or services. E2SHB 2595(3)(e) states that citizenship for AVR shall be verified through an SSA data match or manually verified by the agency during the client transaction. And AVR states that agencies may not begin verifying U.S. citizenship as part of an agency transaction for the sole purpose of providing automatic voter registration.

When citizenship verification is required as a condition of eligibility for services, DSHS may use information obtained from the Social Security Administration (SSA). However, SSA data may only be used to establish eligibility as required by various federal policies in the administration of federally-funded state-administered income and/or health maintenance programs. Since the data belongs to Social Security Administration, it cannot be used for any other purpose without SSA’s prior written approval. This includes sharing citizenship information with third parties, such as the Secretary of State’s Office.

The Secretary of State's Office will only accept the following U.S. citizenship verification types:

- Unexpired US Passport or Passport Card;
- U.S. Certificate of Citizenship;
- U.S. Certificate of Naturalization;
- Certified Birth certificate;
- Consular Report of Birth Abroad (US Department of State).

DSHS may collect one of the first four types of U.S. citizenship verification from the client at the time of application. DSHS does not collect Consular Report of Birth Abroad type of verification.

Using FY 18 client data, **we estimate the total number of applicants affected by AVR is 17,691, or 2 percent of total applicants for DSHS services.**

- Other considerations

The 17,691 may be the highest number of new registrations resulting from AVR for DSHS clients. For example, that number will likely be reduced by those applicants who:

- are already registered to vote; or
- decline to register

DSHS' earlier work with clients through the NVRA process revealed that 20-25 percent of the clients referred to the Secretary of State were already registered to vote.

Cost/Timeline

The Department estimates that **\$794,000 total funding is necessary to implement AVR.** This includes initial costs of \$583,000 for planning and development of an automated solution (IT staff and associated costs). After the IT changes are implemented and the business processes are established, there is an ongoing annual cost of \$211,000 associated with staff processing time ("touch time") and maintenance for ongoing IT costs. **"Touch time" includes, but is not limited to, the additional work required of financial workers who will need to inform the client that their application information will be shared with the Secretary of State for automatic voter registration (and answer any relevant resulting questions), and they will also need to "clip" client signature from the Barcode system to send along with the other client voter registration information from ACES (i.e. name, address, DOB, citizenship verification).**

DSHS anticipates AVR planning and design work would commence immediately following approval of funding, with a targeted implementation date 18 months later.

IMPLEMENTING AUTOMATIC VOTER REGISTRATION IN DSHS: BARRIERS AND MITIGATION STRATEGIES

DSHS identified several issues that must be addressed in order to implement AVR. Each issue described below is accompanied by one or more mitigation strategies. Issues include:

- Signatures
- Guardianship
- Data Transmission to Secretary of State's Office
- NVRA
- Privacy/Confidentiality
- Domestic Violence
- Immigration issues

Signatures

The Secretary of State's Office requires a handwritten signature for voter registration. It also will accept a digital copy of a scanned handwritten signature. While DSHS images paper applications, not all applicants use paper applications, thus limiting the applicants submitted through AVR.

Guardianship

A portion of applications received are not signed by the applicant, but by a representative, legal guardian, or someone else with a legal relationship to the client. For the Secretary of State's Office to accept these signatures, they must also be accompanied by a "mark" from the applicant. DSHS can accommodate this requirement by updating the various application forms to include a space for client "mark."

Additionally, courts may rule that some applicants are not eligible to vote under the state's guardianship law (RCW 11.88.010 (5)). While DSHS documents guardianship in general, we do not track specifics, such as the right to vote. These applicants may or may not sign their own applications. The Secretary of State's Office will follow its process for identifying those applicants who are ineligible to vote.

Data Transmission

As electronic transmission of voter registration data will be a new process between DSHS and the Secretary of State's Office, we will have to work together to identify security and technology requirements to safeguard the data and meet all privacy and confidentiality requirements. We propose a workgroup be created with staff representing the IT and program sides of both DSHS and Secretary of State's Office to address security and data transfer issues.

Technology Considerations

ESA Information Technology Solutions has identified the need to develop and maintain an automated solution to support AVR. The new automated solution must include:

- **New automatic AVR messaging function** – A solution must automatically generate a message to eligibility staff using algorithms identifying all applicants and recipients meeting all the following conditions:
 - Verified U.S Citizen.
 - Meets AVR age requirement.
 - Has submitted a signed request for benefits or services according to AVR program policy and procedures (e.g. signed *Application for Benefits* (DSHS 14-0001)).
 - Not opted out of AVR.
- **New functionality to store signature image** – A solution must allow users to store the signature image in a secured location conforming to security standards.

Assumption: Users will manually validate the applicant’s signature and copy an image of the client’s signature on request for benefits or services (e.g. signature on DSHS 14-001) by using a snipping tool.

- **New AVR Interface File**
 - Build a new interface transmit the following required AVR information to Secretary of State’s Office: name, residential & mailing addresses, date of birth, signature (image) and U.S. Citizenship.

Assumptions:

- Secretary of State’s Office will develop an encrypted web service to be used by the department to transmit required AVR data elements.
- The Secretary of State’s Office interface will need to be bidirectional
- Build a method to reconcile interface file data that includes re-transmitting applicant’s signature image depending on the quality of the signature provided.
- Exclude the following applicants from file:
 - Applicants signing requests using electronic and telephonic signatures
 - Applicants enrolled in the Address Confidentiality Program
 - Applicants who are not the head of household such as authorized representatives and other household members that are not the head of household
 - Applicants self-attesting U.S. Citizenship status (non-verified)
 - Applicants who have opted out of AVR

ESA Information Technology Solutions estimates an initial one-time cost to create an AVR messaging function, a method to capture and store signature images, including purchasing software and hardware, and a new interface to transmit the AVR elements to Secretary of State’s Office using its web service. There will also be ongoing maintenance and operation costs.

The estimate includes changes to the Washington Connection Portal electronic forms and ACES attachments providing clients mandatory automatic voter registration information, including penalties for providing incorrect information, and providing them the option to opt-out if they are already registered or do not want to register to vote. Additionally, this estimate may need to be adjusted as the scope is further defined and

requirements are identified (e.g. future discussions regarding transmitting additional AVR data or the reconciliation process).

NVRA

The National Voters Registration Act (NVRA) and state law requires public assistance agencies, like DSHS, to affirmatively offer voter registration assistance at application, benefit review, and change of address. Under the NVRA, DSHS refers clients to the Secretary of State's Office only if they affirmatively accept voter registration assistance from DSHS. [See Appendix 2.](#)

By contrast, under the AVR process, participating agencies must provide applicant information automatically to the Secretary of State's Office for voter registration, unless applicants decline to have their information sent. [See Appendix 3.](#)

Implementing two voter registration processes has the potential of confusing DSHS staff and clients alike. However, before implementing AVR, DSHS will consult with other states' public assistance agencies implementing both NVRA and AVR processes to review best practices and efficiencies.

Privacy/Confidentiality

Federal and state laws and regulations limit or prohibit sharing client information related to public assistance programs administered by DSHS. DSHS has evaluated federal and state privacy and confidentiality laws and has concluded we can transmit the information to the Secretary of State's Office only after taking steps to mitigate the barriers created by strict federal prohibitions on data sharing for most of the public assistance programs – put in place to safeguard our clients' confidentiality.

Federal confidentiality laws that may apply include:

- 7 U.S.C. § 2020(e)(8) (SNAP applicants and recipient);
- 7 C.F.R. § 272.1(c) (SNAP applicants and recipient);
- 42 U.S.C. § 602(a)(1)(A)(iv) (TANF applicants and recipients);
- 45 C.F.R. § 205.50(a)(1)(i);
- 45 C.F.R. § 431.300-.307 (Medicare);
- 42 U.S.C. § 1396a(a)(7) (Medicaid);
- 42 C.F.R. § 431.306 (Medicaid);
- 45 C.F.R. §164.502(a) (protected health information).

AVR applies most directly to client data from the Social Security Administration (SSA). Federal guidelines indicate that SSA data may be used only to administer the program for which it was disclosed; e.g. for public assistance programs, not AVR. As such, DSHS is unable to include applicants whose only citizenship data comes from SSA. However, if an applicant chooses to provide DSHS with other citizenship verification documentation, such as a certified birth certificate or other method approved by the Secretary of State's Office, that applicant will be included in the AVR process.

SNAP, TANF, and most public assistance programs have both federal and state statutes and regulations that prohibit sharing client information unless there is a specific purpose for sharing the information stated in the

law, or unless the client gives consent. Otherwise, the data can only be used for purpose of administering the program for which it was disclosed.

Outside of SSA or similar federal data, we believe that gaining informed consent from applicants will meet the requirements of other privacy and confidentiality laws. This will require changing the application form for most benefit programs to obtain consent to share information.

Domestic Violence

When any citizen is registered to vote their address becomes publicly available unless they participate in the Address Confidentiality Program. This becomes a concern when that citizen has domestic violence issues. Applicants sometimes disclose domestic violence concerns to DSHS when applying for benefits, but we do not have a method to identify these applicants in our eligibility system unless they chose to participate in the Address Confidentiality Program (ACP). However, those in the ACP will be offered voter registration assistance through the NVRA process.

Some DSHS applicants choose not to disclose they are domestic violence survivors. DSHS will clearly explain address disclosure during the AVR informed consent process and will continue to work with voter registration advocates who are concerned some individuals will not register due to address disclosure.

Immigration Issues

The legislation limits the data transferred to Secretary of State's Office to those with verified citizenship, the likelihood is low that a non-citizen would inadvertently be registered to vote. However, if that were to occur, there could be federal immigration implications. For example, in the unlikely event that a non-citizen's application information was accidentally sent to the Secretary of State's Office and registered to vote, the applicant could be criminally prosecuted under federal law or perhaps even deported. To mitigate this issue, DSHS will clearly outline voter registration requirements in information provided to potential voters as part of the AVR process. Voter registration advocates have offered to assist DSHS with drafting warning language, so that applicants are not unnecessarily frightened by the AVR process.

Appendix 1

Proposed timelines and estimated hours and costs from IT-ESA

Assuming the department receives a final decision requiring DSHS to implement AVR by January 2019 and any AVR change request is assigned the highest priority, IT may be able to start the requirement phase in January 2019 with a target release date of mid-July 2020.

Timelines

ACES & Washington Connection:

- Requirement Phase:
 - Starts: 1/2019
 - Ends: 6/17/2019
- Planning Phase:
 - Starts: 6/28/2019
 - Ends: 02/23/2020
- Design and Development Phase:
 - Starts: 07/2019
 - Ends: 05/22/2020
- Testing Phase:
 - Starts: 05/26/2020
 - Ends: 07/03/2020
- Target Release: **Mid-July 2020**

Barcode:

- Requirement Phase:
 - Starts: 01/2019
 - Ends: 6/2019
- Design and Development Phase:
 - Starts: 07/2019
 - Ends: 05/22/2020
- Testing Phase:
 - Starts: 05/26/2020
 - Ends: 07/03/2020
- Target Release: **Mid-July 2020**

Note: Washington Connection, ACES, and Barcode changes will be released in the mid-July 2020 ACES release.

Estimated Hours and Costs

The following hours and cost estimates are based on the timelines above.

Washington Connection & ACES			
Staff	FY19 (hours)	FY20 (hours)	
ITS 6	137.5	40	
ITS 5	26	50	
ITS 4	20	115	
Architect (ACES)	15	15	
Developers (Contract)	15	485	

Barcode			
Staff	FY 19 (hours)	FY20 (hours)	
ITS 6 (Barcode Architect)	200	300	
ITS 6 (Security Team)	100	442.5	
ITS 5 (Barcode Developer)	300	700	

Other Related Costs			
Purchase	FY19 (\$)	FY20 (\$)	FY21 & Ongoing (\$)
Software		\$250,000 ²	
Maintenance			\$30,000
Hardware (new server)		\$25,000	
Technical Assistance		\$20,500 ³	

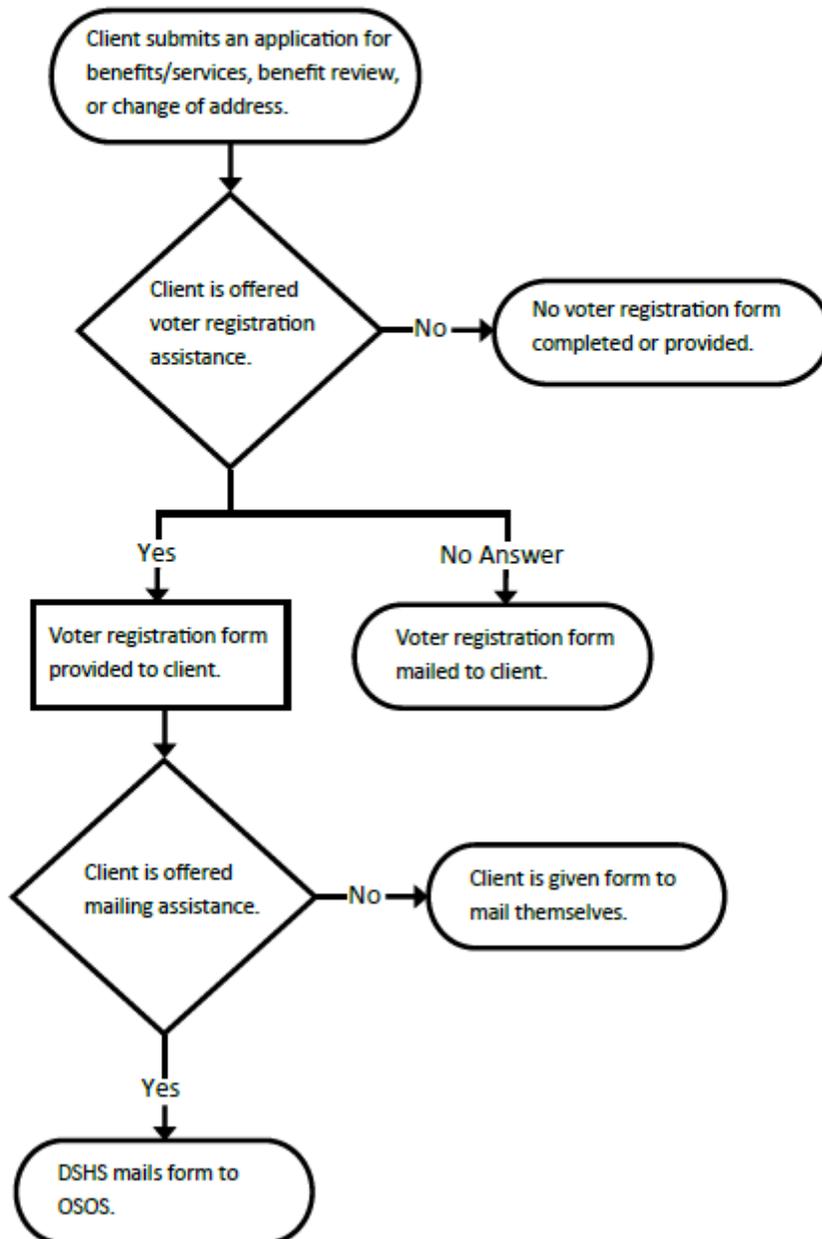
The proposed timelines and costs may need to be adjusted as the scope is further defined and requirements are identified. Additionally, the results of security reviews, coordination with the Office of the Secretary of State, and how we promote coordinated automation changes across systems could create additional delays to the proposed timelines and release date.

² The cost includes installation and 1 year software assurance

³ Technical assistance is a one-time cost during implementation.

Appendix 2

National Voter Registration Act Current Process



Appendix 3

Proposed Automatic Voter Registration Process CSD/ESA

